

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BARRY SUNSHINE, on behalf of himself	:	CIVIL ACTION
<i>and all others similarly situated,</i>	:	
	:	
Plaintiff,	:	
v.	:	No. 10-01030
	:	
REASSURE AMERICA LIFE	:	
INSURANCE COMPANY and SWISS	:	
RE LIFE & HEALTH AMERICA,	:	
INCORPORATED,	:	
	:	
Defendants.	:	

O R D E R

AND NOW, this 22nd day of February, 2011, after consideration of defendants' motion to dismiss, or in the alternative, to strike (paper no. 10), plaintiff's response (paper no. 13), defendants' reply (paper no.17), following a conference on September 13, 2010 at which counsel for all parties were heard, and for the reasons stated in the attached memorandum of today's date, it is **ORDERED** that:

1. Plaintiff's complaint (paper no. 1) is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction. Plaintiff is granted leave to file an amended complaint alleging subject matter jurisdiction.

2. Defendants' motion to dismiss, or in the alternative, to strike (paper no. 10) is **DENIED AS MOOT**.

/s/ Norma L. Shapiro

J.